



# Tax Alerts

## The Paid Medical Leave Act

1. **When will Michigan's new Paid Medical Leave Act take effect?** The act took effect on **March 29, 2019**.
2. **What employers are covered by the act?** Employers with 50 or more individuals regardless of full or part-time status or how many hours they work. It does not apply to the United States government, other states, or to political subdivisions of other states.
3. **What employees are eligible to receive paid medical leave?** An eligible, nonexempt employee is an individual engaged in service to an employer in the business of the employer and from whom an employer is required to withhold for federal income tax purposes.
4. **Are there any employees who are not covered by the act?** The act has 12 specific employee exemptions. A full list of employee exemptions is available on the Wage and Hour Division's website at [www.michigan.gov/wagehour](http://www.michigan.gov/wagehour).
5. **When does an eligible employee begin to accrue paid medical leave?** Accrual began on March 29, 2019, or upon commencement of the employee's employment, whichever is later.
6. **How does an eligible employee accrue paid medical leave?** Leave is accrued at a rate of 1 hour for every 35 actual hours worked; however, an employer is not required to allow accrual of over 1 hour in a calendar week or more than 40 hours in a benefit year.
7. **What is a benefit year?** A benefit year is any consecutive 12-month period used by an employer to calculate an eligible employee's benefits.
8. **May an employee carry over unused medical leave from one benefit year to the next?** Yes. Employees can carry over up to 40 hours of unused accrued paid medical leave from one benefit year to the next; however, employers are not required to allow employees to use more than 40 hours in a single benefit year.

9. **May an employer provide the total amount of paid medical leave all at once?** Yes. An employer may provide at least 40 hours of paid medical leave at the beginning of the benefit year or on the date that the individual becomes eligible during the benefit year on a prorated basis. If an employer adopts this practice, it does not have to permit employees to carry over unused leave to the next benefit year.
10. **When is paid medical leave available for use by an eligible employee?** An employee may use paid medical leave as it is accrued except an employer may require an employee to wait until the 90<sup>th</sup> day after commencing employment before using accrued paid medical leave.
11. **Does paid medical leave have to be taken in 1-hour increments?** Yes.
12. **When can an eligible employee use paid medical leave?**
  - Physical/mental illness, injury, or health condition of the employee or his or her family member
  - Medical diagnosis, care, or treatment of the employee or employee's family member
  - Preventative care of the employee or family member
  - Closure of the employee's primary workplace by order of a public official due to a public health emergency
  - The care of a child whose school or place of care has been closed by order of a public official due to a public health emergency
  - The employee's or his or her family member's exposure to a communicable disease that would jeopardize the health of others as determined by health authorities or a health care provider

For domestic violence and sexual assault situations, employees may use paid medical leave for the following:

- Medical care or psychological or other counseling
- Services from a victim services organization
- Relocation
- Obtaining legal services
- Participation in any court proceedings related to or resulting from the domestic violence or sexual assault

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- 13. Who is considered a family member?** Family member includes:
- Biological, adopted or foster child, stepchild or legal ward, or a child whom the employee stands in loco parentis
  - Biological parent, foster parent, stepparent, adoptive parent, or legal guardian of an employee
  - Spouse
  - Loco parentis when the employee was a minor child
  - Grandparent; grandchild
  - Biological, foster, and adopted siblings
- 14. Can an employer require an employee to use other employment benefits, such as vacation pay, prior to using paid medical leave?** Yes. There is a rebuttal presumption that an employer is compliant with the act if the employer provides at least 40 hours of paid leave to an eligible employee each benefit year. Paid leave includes, but is not limited to, paid vacation days, paid personal days, and paid time off.
- 15. What is the required wage rate for paid medical leave calculations?** Leave must be paid at a pay rate equal to the greater of either an employee's regular rate of pay or the Michigan minimum wage rate. The regular rate for a tipped employee is the applicable minimum wage rate.
- 16. Does accrued, unused paid medical leave need to be paid upon termination of employment?** No.
- 17. Can an employer require an employee to provide notice of and documentation for the use of paid medical leave?** Yes.
- 18. Does the employer have a duty to maintain the confidentiality of the information provided by the employee?** Yes, the employer cannot disclose the information to others without the employee's permission.
- 19. What recourse does an employer have for an employee failing to follow established notice and documentation policies?** The act does not prohibit an employer from disciplining or discharging an employee for failing to comply with the employer's established policies and procedures. Employers should consult with an attorney for guidance concerning the creation of notice and documentation requirements.
- 20. What are employer recordkeeping requirements under the act?** Employers must retain records that document the hours worked and paid medical leave taken by employees for not less than 1 year; however, there may be other laws, such as 1978 Public Act 390, the Payment of Wages and Fringe Benefit Act, that may require hours worked and fringe benefit documentation be maintained for not less than 3 years. These records shall be open to the Wage and Hour Division at any reasonable time.
- 21. Does the Paid Medical Leave Act contain a posting requirement?** Yes. The Paid Medical Leave Act poster may be downloaded from the Wage and Hour Division's website, [www.michigan.gov/wagehour](http://www.michigan.gov/wagehour), or copies may be requested by calling 855-464-9243 (4MI-WAGE).
- 22. What remedy is available to employees who believe their employer has violated the act?** A claim may be filed with the Wage and Hour Division within 6 months of the alleged violation date.

An investigation will be completed, and mediation attempted if appropriate. If informal resolution is unsuccessful and a violation is found, payment of paid medical leave improperly withheld will be requested and penalties may be imposed.

- 23. What penalties are imposed against an employer for violating the act?** An employer who fails to provide paid medical leave is subject to a 1,000.00 administrative fine. An employer who willingly violates the posting requirement is subject to a \$100.00 administrative fine for each separate violation.
- 24. How do I file a claim for violations of the Paid Medical Leave Act?** Claims may be filed online at [www.michigan.gov/wageclaim](http://www.michigan.gov/wageclaim); in person at a Wage and Hour Division office (see website for locations); or a form may be requested by calling 855-464-9243 (4MI-WAGE). Claim forms are available in English, Spanish, and Arabic.
- 25. What if I have additional questions?** Please visit [www.michigan.gov/wagehour](http://www.michigan.gov/wagehour) or call 855-464-9243 (4MI-WAGE).

We highly encourage you to check with your HR Department or attorney regarding the new Act to avoid penalties for non-compliance.

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### QuickBooks Corner- Tips & Tricks for QuickBooks

#### Utilize Memorized Transactions

One of the best ways to make life easier is to use QuickBooks to keep making regular transactions automatically. To enable that feature, (1) click on Lists, (2) Memorized Transaction List, (3) Memorized Transaction, (4) New Group and set up the transactions you want memorized. Then you can use these to pay bills or send off monthly invoices which follow the same pattern.

Please call our office with any QuickBooks issues you may have, we have a Certified Consultant on staff. ♦